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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,790	12/31/2001	Robert J. Belmares	P-A626-CIP	2973

7590 05/26/2004
The White House on Turtle Creek
2401 Turtle Creek Blvd.
Dallas, TX 75219-4760

EXAMINER

HUNG, YUBIN

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 05/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,790

Applicant(s)

BELMARES, ROBERT J.

Examiner

Yubin Hung

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Response to Amendment/Arguments

1. This action is in response to amendment received on March 22, 2004.
2. Claims 1-14 have been cancelled. Claim 15 is still pending.
3. In view of applicant's amendment, the objection to the drawings and the specification has been withdrawn.
4. Applicant's arguments filed March 22, 2004 have been fully considered but they are not persuasive. Therefore, 35 USC 102 (e) rejection of claim 15 is respectfully maintained and incorporated by reference as set forth in the prior office action (paper #2).
5. Specifically, claim 15 is rejected under 35 U.S.C. 102(e) as being anticipated by Koller et al. (US 6,130,707):

Regarding claim 15, Koller et al. discloses

- Take a benchmark image, divide it into multiple cells, assign a numerical value to each cell and sum the values
[Figs. 3A-3C]
- Take another image, divide it into multiple cells, assign a numerical value to each cell and sum the values
[Figs. 3A-3C]
- Compare the sums of the two images
[Fig.4. Note the summing of the numeric differences in numeral 430 is equivalent to comparing the sums of the cells of the respective images in Claim 15]

6. In remarks Applicant argued in substance (P. 4, lines 6-14) that he disagrees with the following statement in the first office action "Note the summing of the numeric differences in Element 430 is equivalent to comparing the sums of the cells of the respective images in Claim 15" on the grounds that comparing sums gives an entirely different result than summing differences because Koller et al.'s summing is *intended* to allow for "global changes," and that comparing sums as in claim 15 allows someone who is working within the image range or something, such as a pet or a ceiling fan to move around within the image range without triggering an alert conditions, items which would not be considered "global" or "changes." This argument is not persuasive because mathematically taking the sum of differences (of corresponding cells from two images) is equivalent to taking the difference of the sums (which in turn is equivalent to comparing the sums); Koller et al.'s intent does not change this fact. In addition, the effect of claim 15 as recited above (i.e., allowing something in the image range without triggering an alert conditions) is not part of the claim and therefore is irrelevant. Regarding the Applicant's argument in lines 14-17, it is noted that 35 U.S.C. 102 (e) rejection is based on the *filing* date, not the issuance date and that Koller et al.'s filing date (April 14, 1997) is earlier than the filing date (February 26, 1999) of the current application's parent (09/258,056, now US Patent 6,335,976).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

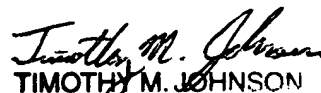
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yubin Hung whose telephone number is (703) 305-1896. The examiner can normally be reached on 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (703) 308-5246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yubin Hung
Patent Examiner
May 24, 2004


TIMOTHY M. JOHNSON
PRIMARY EXAMINER